

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

Case No. 7:23-CV-00292-M

TYRANCE DREQUAN BENBOW,
BECKY LEE LaSALLE, individually, as
heir to Tyrance Drequan Benbow and as
representative of the estate of
Tyrance Drequan Benbow, deceased,

Plaintiffs,

v.

JOHN W. INGRAM, in his individual
and official capacities as the Sheriff of
Brunswick County, North Carolina,
JOSH DAVIES, in his individual and
official capacities as Sergeant of the
BCSO Drug Enforcement Unit,
KEITH E. BOWLING, in his
individual capacity as a Deputy
Sheriff for the Brunswick County
Sheriff's Office,
ALEXANDER MELVIN, in his
individual capacity as a Deputy
Sheriff for the Brunswick County
Sheriff's Office,
MARK HEWETT, in his individual
and official capacities as the Fire
Chief for Civietown Volunteer Fire
and Rescue Department, and
JOHN DOES I-X inclusive,

Defendants.

ORDER

This matter comes before the court on the Plaintiffs' unopposed Motion for Leave to Amend Complaint [DE 40].¹ In the interest of justice pursuant to Rule 15(a) of the Federal Rules

¹ Typically, a party may amend its pleading once as a matter of course within the time period allotted for response to a motion to dismiss. Here, Plaintiffs were granted extensions of time in which to file a response to the pending motions to dismiss; the last deadline was July 10, 2023, but

of Civil Procedure, the motion is GRANTED. The court accepts as the operative pleading in this case the Plaintiffs' First Amended Complaint, located at DE 41.

"Ordinarily, an amended complaint supersedes those that came before it." *Goodman v. Diggs*, 986 F.3d 493, 498 (4th Cir. 2021) (citing *Young v. City of Mount Ranier*, 238 F.3d 567, 572 (4th Cir. 2001)). In light of the filing of the First Amended Complaint, Defendants' Motions to Dismiss [DE 15, 18] and Plaintiffs' Motion to Strike and Motion to Stay [DE 27, 29] are DENIED WITHOUT PREJUDICE as moot.

SO ORDERED this 9th day of August, 2023.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE

Plaintiffs failed to demonstrate both good cause and excusable neglect for a third extension of time. *See* DE 36. Moreover, Plaintiffs have notified the court that Defendants do not oppose a request to amend, but do not provide a "written consent." Therefore, Plaintiffs properly filed the present motion pursuant to Fed. R. Civ. P. 15(a)(2).